

# Article One

## Basic Provisions



August 12, 2003  
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# Basic Provisions

### 1.1 Title

This Zoning Ordinance shall be formally known as the "Kokomo Zoning Ordinance, 2003" and it may be cited and referred to as the "Zoning Ordinance," or as the "Zoning Code."

### 1.2 Defined Words

Words used in a special sense in this Zoning Ordinance are defined in Article Eleven.

### 1.3 Authority

This Zoning Ordinance is adopted by the City pursuant to its authority under the laws of the State of Indiana, 36-7-4 et seq. Whenever codes cited in this Zoning Ordinance refer to Indiana Code which has been amended or superseded, this Zoning Ordinance shall be deemed amended in reference to the new or revised code.

### 1.4 Purpose

This Zoning Ordinance is intended to guide the growth and development of the City in accordance with the goals, objectives, and strategies stated within the Kokomo Comprehensive Plan and for the following purposes:

- A. To secure adequate light, air, and convenience of access; and safety from fire, flood, and other dangers.
- B. To promote the public health, safety, comfort, convenience, morals and general welfare.
- C. To plan for the future development of the City to the end:
  - a. That the community grows only with adequate public ways, utility, health, educational and recreational facilities;
  - b. That the needs of agriculture, industry and business are recognized in future growth;
  - c. That residential areas provide healthful surroundings for family life;
  - d. That the growth of the community is commensurate with and promotes the efficient and economical use of public funds; and
  - e. That the community strive for high aesthetic value and quality planning and design.

### 1.5 Applicability

A structure shall not be located, erected, constructed, reconstructed, moved, altered, converted, enlarged or used; nor shall any piece of land be used; nor shall any existing use be expanded except when in full compliance with all provisions of this Zoning Ordinance and the permits required by this Zoning Ordinance have lawfully been issued.

### 1.6 Severability

If any provision or the application of any provision of this Zoning Ordinance is held unconstitutional or invalid by the courts, the remainder of the Zoning Ordinance or the application of such provision to other circumstances shall not be affected.

### 1.7 Interpretation

The provisions of this Zoning Ordinance are the minimum requirements necessary for the protection of the health, safety, comfort, morals, convenience and general welfare of the people at large. The provisions are also designed to establish and maintain reasonable community standards to achieve the Purpose (Section 1.4) of this Zoning Ordinance. If 2 or more provisions within this Zoning Ordinance are in conflict or are inconsistent with one another, then the provision which is most restrictive shall control.

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## **1.8 Ordinance Jurisdiction**

This Zoning Ordinance applies to all land within the corporate limit of the City of Kokomo, Indiana.

## **1.9 Conflicting Regulatory Documents**

When this Zoning Ordinance along with private covenants, private contracts, commitments, permits, agreements, state laws, federal laws or other regulations regulates a structure or parcel of land, the greater restriction shall control.

## **1.10 Actions Pending**

This Zoning Ordinance shall not be construed as eliminating or reducing any action now pending under an existing law or previous zoning ordinance. Also, this Zoning Ordinance shall not be construed as discontinuing, reducing, modifying, or altering any penalty accruing or about to accrue.

## **1.11 Repealer**

The City of Kokomo Zoning Ordinance of 1972, Ordinance No. 4153; Zoning Ordinance Amendment number 5067; Zoning Ordinance Amendment 6124; Zoning Ordinance Amendment 5959; and Zoning Ordinance Amendment 6179; and its associated zoning map are hereby repealed. This Kokomo Zoning Ordinance (2003) and the referenced and updated Official Zoning Map (2003) replace the repealed ordinances.

## **1.12 Transition Rules**

- A. Any application for an Improvement Location Permit that has been filed with the Plan Commission or its designees and is full and complete, prior to the effective date of this Zoning Ordinance, shall be regulated by the terms and conditions of the Zoning Ordinance that was in place at the time of filing. The filing fee, if not already paid, shall be consistent with the previous zoning ordinance. However, the administrative procedures shall follow those set forth by this Zoning Ordinance.
- B. Any application for an Official Zoning Map Amendment that was filed with the Plan Commission or its designees, and is full and complete prior to the effective date of this Zoning Ordinance, shall continue through the process to completion pursuant to the terms and conditions of the Zoning Ordinance that was in place at the time of filing. However, if the proposed use would no longer be permitted in the proposed zoning district or the proposed zoning district no longer exists in the new ordinance, then the Planning Director shall amend the application such that the request for rezoning would accomplish the same end goal for the applicant.
- C. Any application before the Board of Zoning Appeals (i.e. special exception, development standards variance) that has been filed with the BZA or its designees and is full and complete, prior to the effective date of this Zoning Ordinance, shall continue the process pursuant to the terms and conditions of the Zoning Ordinances that was in place at the time of filing, provided that:
  - a. The application is still required by the terms of this Zoning Ordinance; or,
  - b. If the proposed use or development requires additional approvals from the Board of Zoning Appeals pursuant to the terms of this Zoning Ordinance that were not required under the previous Ordinances, the application will be amended to include only those additional approvals that are now required and within the jurisdiction of the Board of Zoning Appeals.
- D. All new building sites shall meet the requirements of this Zoning Ordinance unless:
  - a. A Building Permit was issued and is still valid, or
  - b. A parcel was approved as a buildable lot by the Plan Commission or the Board of Zoning Appeals prior to the effective date of this Zoning Ordinance.

## **1.13 Administrative Officer**

The Planning Director will have the primary responsibility for administration and enforcement (or coordination of enforcement) of this Zoning Ordinance within the Plan Commission's planning jurisdiction.

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#### **1.14 Effect on Annexation or Vacation on Zoning**

- A. After the effective date of this Zoning Ordinance, areas annexed by the City of Kokomo shall be changed to the most similar zoning district to its previous county zoning district.
- B. Whenever any street, alley, public way, railroad right-of-way, waterway, or other similar area is vacated by proper authority, the zoning districts adjoining each side of vacated areas shall be extended automatically to the center of the vacated area. All areas included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended zoning districts. In the event of a partial vacation, the adjoining zoning district, or zoning district nearest the portion vacated, shall be extended automatically to include all of the vacated area. Any disputes as to the exact zoning district boundaries shall be determined by the Planning Director.

#### **1.15 Summary of Powers and Duties of the Common Council**

The powers and duties of the Common Council are described below. Duties should be interpreted as activities that are obligations. Powers should be interpreted as activities that are optional to be initiated.

##### **A. Common Council Duties:**

- a. Adopt, reject or amend the Comprehensive Plan, Strategic Plans, Zoning Ordinance, or Subdivision Control Ordinance that have been certified and submitted by the Plan Commission.
- b. Adopt, reject or amend proposals to amend or partially repeal the text of the Comprehensive Plan, Strategic Plans, Zoning Ordinance, or Subdivision Control Ordinance that has been certified and submitted by the Plan Commission.
- c. Adopt, reject or amend proposals to amend the Official Zoning Map certified and submitted by the Plan Commission.
- d. Adopt, reject or amend a fee schedule that has been proposed or amended and submitted by the Plan Commission.
- e. Enforce regulations and procedures of the Comprehensive Plan, Zoning Ordinance, and Subdivision Control Ordinance to the extent of the local Resolutions, Ordinances, and State of Indiana Law.
- f. Other duties as permitted by Indiana State Code.

##### **B. Common Council Powers:**

- a. Initiate amendments to the text of the Comprehensive Plan, Strategic Plans, Zoning Ordinance, or Subdivision Control Ordinance by making said proposal to the Plan Commission.
- b. Initiate amendments to the Official Zoning Map by making said proposal to the Plan Commission.
- c. Other powers as permitted by Indiana State Code.

#### **1.16 Summary of Powers and Duties of the Plan Commission**

The powers and duties of the Plan Commission are described below. Duties should be interpreted as activities that are obligations. Powers should be interpreted as activities that are optional to be initiated.

##### **A. Plan Commission Duties:**

- a. Adopt and maintain a Common Council approved Comprehensive Plan, Zoning Ordinance and Subdivision Control Ordinance as authorized under Indiana State Law.
- b. Adopt and maintain rules and procedures for holding meetings, holding public hearings, and administering and enforcing the Comprehensive Plan, Zoning Ordinance, and Subdivision Control Ordinance.
- c. Maintain complete records of all meetings, hearings, correspondences, and affairs of the Plan Commission.

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- d. Publish and make available to the public all plans, ordinances, and other related material that are the responsibility of the Plan Commission.
  - e. Adopt and maintain a permitting process and seal used to certify official or approved documents.
  - f. Certify and submit recommendations to the Common Council including new versions of and revisions to the Comprehensive Plan, Zoning Ordinance, Subdivision Control Ordinance, and Official Zoning Map.
  - g. Certify and submit recommendations to the Common Council for adopting a Planned Development District.
  - h. Maintain monetary and fiscal records of the Plan Commission.
  - i. Prepare and submit an annual budget to the Common Council.
  - j. Approve or deny plats or replats of subdivisions.
  - k. Approve or deny development plans and amendments to development plans.
  - l. Approve or deny proposed subdivision names in new developments.
  - m. Establish and maintain a Common Council approved fee schedule that assigns a fee to permits, processes, and official actions of the Plan Commission in order to defray the administrative costs of such duties and powers.
  - n. Enforce regulations and procedures of the Comprehensive Plan, Zoning Ordinance, and Subdivision Control Ordinance to the extent of the local Resolutions, Ordinances, and State of Indiana Law.
  - o. Other duties as permitted by Indiana State Code.

**B. Plan Commission Powers:**

- a. Delegate to a committee or person the role of Planning Director with the Howard County Plan Commission, as provided by the Kokomo - Howard County Inter local Cooperative Agreement No. 1994-1, as amended.
- b. Hire, remove, and determine job descriptions for support staff with the Howard County Plan Commission, as provided by the Kokomo - Howard County Inter local Cooperative Agreement No. 1994-1, as amended.
- c. Establish advisory committees as necessary made up of City officials and the general public.
- d. Establish an executive conference committee with the Howard County Plan Commission, as provided by the Kokomo - Howard County Inter local Cooperative Agreement No. 1994-1, as amended.
- e. Seek funding assistance through grant programs as necessary.
- f. Distribute copies or summaries of the Comprehensive Plan, Zoning Ordinance, or Subdivision Control Ordinance to the general public and development community.
- g. Determine the compensation for support staff and members as provided within the budget submission to Common Council.
- h. Other powers as permitted by Indiana State Code.

**1.17 Summary of Powers and Duties of the Board of Zoning Appeals**

The powers and duties of the Board of Zoning Appeals are described below. Duties should be interpreted as activities that are obligations. Powers should be interpreted as activities that are optional to be initiated.

**A. Board of Zoning Appeals Duties:**

- a. Review and hear appeals of decisions made under this Zoning Ordinance by the Planning Director and Plan Commission Staff.
- b. Review, hear and approve or deny all petitions for special exceptions based on the provisions of this Zoning Ordinance and Indiana State Code.
- c. Other duties as permitted by Indiana State Code.

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### 1.18 Planning Commission Certification

This Zoning Ordinance was certified for adoption on the 12th day of August, 2003 by the Kokomo Planning Commission after holding a legally announced public hearing. This Zoning Ordinance was certified by a 8 to 0 vote. This certification is validated by the following Planning Commission members.

\_\_\_\_\_  
*\*(signed)\**

Jeff Carney

\_\_\_\_\_  
*\*(signed)\**

Chris Thompson

\_\_\_\_\_  
*\*(signed)\**

Richard Murphy

\_\_\_\_\_  
*\*(signed)\**

Lisa Rink

\_\_\_\_\_  
*\*(signed)\**

Greg Goodnight

\_\_\_\_\_  
*\*(signed)\**

William Eldridge

\_\_\_\_\_  
*\*(signed)\**

Keith Kruger

\_\_\_\_\_  
*\*(signed)\**

John Beery

\_\_\_\_\_  
Tim Severns

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**1.19 Effective Date**

This Zoning Ordinance shall be in full force and effect on the 6th day of November, 2003.

PASSED by the Kokomo Common Council this 29th day of September, 2003.

*\*(signed)\**

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Robert L. Hayes, Sr., President  
Kokomo Common Council

Attest:

*\*(signed)\**

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Brenda Ott, City Clerk

PRESENTED by me to the Mayor this 30th day of September, 2003.

*\*(signed)\**

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Brenda Ott, City Clerk

APPROVED by me this 16th day of October, 2003.

*\*(signed)\**

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James E. Trobaugh, Mayor  
City of Kokomo, Indiana

Attest:

*\*(signed)\**

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Brenda Ott, City Clerk

